

PLANNING COMMISSION MINUTES

January 15, 2008

7:00 P.M.

Present: Chairman Clark Jenkins, Vice Chairman Tom Smith, Dave Badham, Michael Allen, Barbara Holt, Ray Keller, City Council Representative Beth Holbrook, City Attorney Russell Mahan, City Engineer Paul Rowland and Recording Secretary Connie Feil.

Absent: Planning Director Aric Jensen.

Clark Jenkins welcomed all those present.

Barbara Holt made a motion to approve the minutes for December 4, 2007 as amended. Beth Holbrook seconded the motion and voting was unanimous.

Russell Mahan explained that State Law requires that all City Officials be sworn into office. Ralph Hill, Deputy City Recorder, had Barbara Holt, Clark Jenkins and Michael Allen repeat the "Oath of Office." Tom Smith, Ray Keller and Dave Badham took the oath on November 20, 2007. Mr. Mahan also explained that Beth Holbrook was elected to the City Council and has now been assigned to represent the City Council on the Planning Commission. Barbara Holt has been assigned to the Planning Commission to finish Beth's assignment. Barbara Holt was an elected official with the City Council for 20 years.

Mr. Mahan mentioned that Aric Jensen is not present to explain or answer any questions about the sign package for Village on Main. Mr. Mahan asked if the Commission wanted to continue the item for another date or review it tonight as scheduled. The Commission members were comfortable with reviewing it as scheduled.

1. PUBLIC HEARING - Consider preliminary and final plat approval for Bountiful City Cemetery Plat M, Bountiful City, applicant.

Paul Rowland introduced Todd Christensen, Public Works Engineer, as the design engineer for this project. Todd Christensen explained that this expansion is the largest addition to the cemetery in several years. This expansion contains 290 full or partial lots, with each full lot containing eight individual 4 ft. by 8 ft. burial plots. Partial lots, which contain between 1 and 7 plots, are caused when roads or other interferences cut through lots. It is estimated that the 290 lots will be full within 5 to 8 years.

Paul Rowland explained that North Salt Lake, Woods Cross and West Bountiful do not have their own cemeteries. The roads for this addition, Plat M, were constructed last summer and the landscaping and sprinkler work will be done early this summer. A landscape planting plan is being prepared by the cemetery personnel to show the location of the trees that are intended to be planted. The trees need to be placed so that they do not interfere with the sprinkler system.

Staff recommends that the Planning Commission send a favorable recommendation for preliminary and final approval of the Bountiful City Cemetery Plat M.

The public hearing was opened for all those with comments or concerns. The public hearing was closed without comments.

There was a brief discussion regarding the location and number of trees to be planted on this property.

Michael Allen made a motion to recommend to the City Council preliminary and final plat approval of the Bountiful City Cemetery Plat M as outlined by Staff with the addition of the following condition:

1. A landscape plan be prepared showing the location of the trees.

Barbara Holt seconded the motion and voting was unanimous in favor.

2. **PUBLIC HEARING** - Consider preliminary plat approval for a one lot subdivision located approximately at 1200 East Mountain Oaks Drive, Richard S. Adams, applicant.

Richard Adams, applicant, was present. Paul Rowland explained that this proposed 1 lot subdivision is for 2.1 acres of land at about 1265 East Mountain Oaks Drive on the north side of the road. It is a metes and bounds parcel and is not part of an approved subdivision. Bountiful City Ordinance specifically prohibits construction upon any parcel of land that has not received approval from the City Council.

14-4-116 PARCELS OF LAND NOT IN SUBDIVISIONS WITHIN THE R-F SUBZONE

No dwelling shall be constructed on a parcel of land not included as part of an approved subdivision without City Council approval of the parcel of land as a legal building lot. In order to be approved as legal building lot, the Council must determine that the parcel meets the lot, yard, and other requirements of this Title. As part of the review process, the City Council and Planning Commission may request any information typically required for subdivision review. Also, the City Council may require that the applicant record a one lot subdivision plat for the purpose of establishing utility easements and fulfilling other provisions of this Title.

This parcel of land was included in the preliminary Highland Oaks Subdivision drawings as “undeveloped” ground, but it was excluded by the developer from the final phase of Highland Oaks Subdivision. Since it was not intended or approved as a building lot no utility laterals were stubbed into the property during the construction of Mountain Oaks Drive.

The property slopes away from the street with North Canyon Creek running through the north portion of the parcel. The creek occupies a flatter portion of the property about 40 ft wide which is about 50 ft. below the street level at the upper end and over 80 ft below street level at the lower end of the lot. A 30' ft wide creek easement centered on the stream will be required along the entire length of stream encroachment. No building will be allowed in the lower portion of the parcel because of the creek, easement and flood zone issues.

The parcel has an average slope over 45%, as calculated using the preliminary plat supplied by Mr. Adams, with a large portion having a natural slope in excess of 65%. This is unprecedented average steepness for a subdivision or even a single lot. The zoning ordinance requires that for developments with an average slope of more than 30%, the minimum lot size is 5 acres, with a minimum buildable area of 6,000 s.f. (Table 14-14-105b) At 2.1 acres this site has less than half the required minimum lot size and has less than half the minimum buildable area required.

The buildable pad area shown on the proposed plat is irregular in shape and is approximately 5,300 square in total size. This fails initially on two accounts: One, it's irregularly shaped instead of rectangular, and two, it is only 5,300 sq ft instead of 6,000 sq ft. A more indepth review reveals that there is a 12-15 wide strip that runs through the middle of the proposed buildable area with a slope in excess of 40%, and that the garage portion of the building pad is located on ground that varies between 30% and 40% slope. When you subtract out these unbuildable areas, the amount of buildable ground remaining is less than the minimum required in any residential zone anywhere in the City, let alone the RF (Foothill) Zone. Furthermore, the access to the street is located on ground that has a natural slope of about 43%. City Ordinance requires that:

All structures and all other site improvements of whatever description shall be located only upon areas constituting usable land. Furthermore, all lots or parcels that are designated or zoned for residential development shall have a minimum rectangular buildable area with a length to width ratio between 2:1 and 1:2, that is located entirely on ground of less than 30% slope, that does not encroach into required setbacks or easements, and that meets the area requirements as outlined in this section. The minimum building pad may not be modified by Council discretion. The exact location of the minimum building pad shall be designated by the developer or owner during the approval process and shown on the subdivision plat or site plan, as applicable. (Bountiful City Land Use Ordinance, Section 14-4-104 A; underline added)

Based on these requirements, there isn't a buildable area of even 2,000 sq ft, let alone the minimum 6,000 sq ft required by Ordinance. When the original Highland Oaks Subdivision phases were developed in 80's and 90's, the minimum buildable area requirement was 5,000 s.f. with a minimum dimension of 50 ft. This parcel did not meet the requirements for buildable area in place at that time, nor does it meet the requirements now.

The proposed building location is situated on ground that ranges from 15 ft. to 33 ft. below street level. Any structure built on that pad would have to be constructed on natural ground or an engineered pad site. The resulting combination of fill and structure height to reach the street would result in fills in excess of the allowed (10 ft.) or a home taller than the allowed two story/35 ft. maximum. In other words, you could not construct a dwelling on this site in conformance with City Ordinances.

The Land Use Ordinance allows the City Council the discretion to grant exceptions to the requirements of the RF (Foothill) zone, however, the disparity between what is proposed and what is required by the Ordinance appears to well exceed the limited amount of discretion that the Council has. As a result, Staff recommends denying the proposed one lot subdivision for the reasons stated which are listed below.

Staff recommends that the Planning Commission send a negative recommendation to the City Council with the following findings:

1. The site contains a creek which is mapped as a flood zone on the NFIP Flood Plain map and will require a 30 ft. wide easement centered on the creek which will occupy much of the lower portion of the lot.
2. The calculated average slope of the land is in excess of 45%, which means that any lot developed on this property must be at least 5 acres in size (Table 14-14-105b). At only 2.1 acres, the proposed development is less than half the required 5 acres.
3. The proposed development does not contain a minimum 6,000 s.f. building pad area as required in Table 14-14-105b and as defined in 14-4-104 (A) .
4. The areas of 30% slope and greater are inaccurately defined on the proposed subdivision plat; more specifically, there is a 12-15 wide strip running through the middle of the proposed buildable area with a slope varying between 30% and 45% which is not shown, and the south part of the garage portion of the building pad is located on ground that varies between 30% and 40% slope, which also is not indicated.
5. The proposed building site would result in a structure and/or earth-fill that would either violate the maximum building height requirement or the maximum allowable fill requirement of the Ordinance.
6. No approval has been granted for any previous subdivision with slopes and building pads similar to this one.
7. The disparity between what is proposed and what is required by Ordinance

exceeds the discretion afforded to the Council by the City Land Use Ordinance.

Richard Adams explained that when he purchased the property from Mr. Jensen, in approximately 2003, he was told by the seller that he could get 3 lots on this property. The property consisted of Lot 37 of Creekwood of Indian Springs Subdivision, Plat C, and the 2.1 acres. Rather than keeping the two adjacent parcels together, Mr. Adams sold Lot 37 to Evelyn Mower and retained the unbuildable portion of the land. Mr. Adams has been working with Mr. Rowland to find an area for a building pad. He was told that there is not any ground on this property to build. Mr. Adams has this lot sold pending on subdivision approval. He feels that he is paying a mortgage and taxes on a beautiful piece of property and deserves to have a home on the property.

There was a discussion regarding the issue that this is not an approved lot nor an improved lot, the large amount of exceptions that would have to be granted, and that the only section of the Foothill Ordinance it can meet is linear street frontage.

Russell Mahan explained that the subdivision provisions of the Land Use Ordinance allow for the granting of exceptions to the requirements on a limited basis. The extent of exceptions requested with this proposal exceeds the authority in the Ordinance and therefore this proposal needs to follow the variance process.

The public hearing was opened for those with comments and concerns.

William (Bill) Cook, residing at 1260 E. Canyon Creek Dr., explained that prior to the construction of Highland Oaks Subdivision, John Clark approached him and the owner of Lot 37, Mr. Jensen, about purchasing the very steep ground on the east end of his proposed development which backed onto their property. Mr. Cook came into the engineering department and reviewed the possibility of getting building lots on the parcel with then the City Engineer, Jack Balling. At this time he was told that there was not a building pad available on the property and therefore would not be granted a building permit. Mr. Jensen made a trade with Mr. Clark for a piece of property that Mr. Clark needed for the completion of Mountain Oaks Drive. Mr. Jensen ended up with the 1.7 acres, which, when combined with the remainder of an adjacent parcel he already owned resulting in 2.1 acres. Mr. Cook feels for Mr. Adams but this is an unbuildable lot and always has been unbuildable. Mr. Cook hopes that the Commission will agree with the previous City Engineer and not recommend approval of the proposed building lot.

Evelyn Mower, residing at 1351 Canyon Creek Dr., mentioned that there are two different creeks crossing this property. This area has problems with natural springs running through several properties in this area. There would be drainage problems having a home in the bottom of this property with two creeks and the possibility of additional springs. This piece of property is far too steep for any building.

The public hearing was closed without further comments.

Clark Jenkins mentioned that each property owner needs to do their homework before buying property. The City will work with each property owner and do the best that can be done, but they can't go against the ordinances. It becomes the property owners' problem, not the City's.

Michael Allen made a motion to recommend to the City Council denial of the preliminary approval for Canyon Creek Subdivision subject to the findings listed from Staff. Dave Badham seconded the motion and voting was unanimous in favor.

3. Consider a sign package for Village On Main, located at 1500 N. Main.

Dave Kocherhans, representing Village On Main, was present. Russell Mahan explained that this is a large development that was approved by a special Mixed-Use-Zone by the City Council. The approval is based on the proposed development plan and is consistent with the zoning. The following is the memo which Aric Jensen prepared:

The Village on Main Street is an approved development that is currently under construction at approximately 1500 N. Main Street. One of the requirements for commercial site plan approval is to submit a sign package for Planning Commission review and approval. The Village on Main is located in the MXD-R zone which means that the project falls under the sign standards for the Downtown (former CR) zone. Within the Downtown zone, projects larger than 3 acres in size may be developed with signs that vary from the standard requirements, if the Planning Commission makes certain findings.

14-19-115 SIGNS PERMITTED IN THE DOWNTOWN (DN) ZONE

B. Other Approvals.

- 1. All new multi-tenant centers/ buildings must submit a proposal for all on-premise signs to the Planning Commission for design and placement approval.***
- 2. In cases with parcels of land of 3 acres or larger, and with frontage of 200 feet or more, a proposal for the overall design and placement of all on-premise signs shall be submitted. Such signs may vary from the regulations set forth herein and shall be considered as a conditional use for existing projects, or as a condition of site plan approval for new projects. This provision does not grant the applicant any expectation of approval of any sign that differs from the requirements of this Title, rather it allows the City the ability to approve signing schemes appropriate to the scale and impact of a project. The approving body must determine that the proposed sign exceptions are not in conflict with the purpose and intent of this Chapter, are in harmony with the general plan and surrounding development, and are appropriate to the scale and impact of the project.***

The applicant is proposing three free standing signs. First, a monument sign on the corner which is approximately 6 feet high and 8 feet wide. This would sit on top of a slight rise in the landscaping (2 feet high or less, depending on the final grade of the landscaping between the sidewalk and the parking lot).

Second, two pole signs, one at the main commercial entrance on Pages Lane, and the other at the southern entrance on Main Street. These signs are identical, and are approximately 30 feet in height and 18 feet in width. The sign on Pages Lane is in the location that was discussed during site plan review. The sign on Main Street was originally sited for the entrance between Arctic Circle and the U of U Credit Union, however, it was deemed better to have it on the south end to alert drivers heading north that they were approaching the development. I.e., if you have two freeway exits but only one off-ramp exit sign, it's better to have it at the first exit rather than the second.

The other signs proposed would be located on the buildings themselves and would be primarily back-lit pan channel letters. The applicant would also like to do pedestrian scale blade-type signs, however, there may be some conflicts with the awnings that will be mounted on the front of the buildings. Staff recommends approving the option to allow blade-style signs if the conflict with the awnings can be resolved.

Staff recommends approval of the proposed sign plan as presented and/or with changes as necessary, with the findings that it is in scale with the Village on Main Street development, it is in harmony with the surrounding area, and it does not conflict with the intent of the Sign Ordinance.

There was a discussion regarding the size (height) of the signs, lights on the signs, the hours the signs would be lighted, and the monument sign needing to be out of the clear vision area.

After the discussion Dave Badham made a motion to approve the sign package for Village on Main subject to the findings outlined by Staff with the following conditions:

1. Restrict lights on the panels of the pylon signs to be on from 7:00 a.m. to 10:00 p.m., but the lighting on the project identification section of the signs can remain on.
2. The monument sign is required to be placed outside of the clear vision area.

Beth Holbrook seconded the motion and voting was unanimous in favor.

4. Consider 2008 Planning Commission Meeting Schedule.

After a brief discussion it was decided to eliminate November 4, 2008 for the schedule because this date is for the National Elections.

Dave Badham made a motion to approve the Planning Commission Meeting Schedule as amended. Beth Holbrook seconded the motion and voting was unanimous in favor.

Meeting adjourned at 8:25 p.m.